



PATENT
Customer No. 22,852
Application No.: 09/965,792
Attorney Docket No. 05725.0963-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Pascale BERNARD et al.

Application No.: 09/965,792

Filed: October 1, 2001

For: **FILM-FORMING COSMETIC
COMPOSITION**

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) Group Art Unit: 1617
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Sir:

APPEAL BRIEF UNDER 37 C.F.R. § 1.192

In support of the Notice of Appeal filed November 13, 2003, and pursuant to 37 C.F.R. § 1.192, Appellants present, in triplicate, this brief and enclose herewith a check for the fee of \$320.00 required under 37 C.F.R. § 1.17(c).

This Appeal Brief is being filed concurrently with a petition for an Extension of Time for two months, and the appropriate fee.

This Appeal responds to the May 14, 2003, final rejection of claims 1-9, 15-22, and 43-70.

If any additional fees are required or if the enclosed payment is insufficient,

Appellants request that the required fees be charged to Deposit Account No. 06-0916.

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I. Real Party In Interest

L'Oréal S.A. is the assignee of record.

II. Related Appeals and Interferences

There are currently no other appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 1-9, 15-22, and 43-70 are pending in this application; however, claims 10-14, 23-42, and 71-76 have been withdrawn from consideration by the Office in view of the July 16, 2002, Restriction Requirement.

Claims 1-9, 15-22, and 43-70 have been finally rejected by the Office and Appellants appeal the rejection of those claims. The attached Appendix contains a clean copy of the claims involved in the appeal, *i.e.*, claims 1-9, 15-22, and 43-70.

IV. Status Of Amendments

All amendments have been entered. No amendments under 37 C.F.R. § 1.116 have been filed.

V. Summary Of Invention

This invention relates to film-forming cosmetic compositions, which can be used, for example, in the making-up and/or care of keratinous materials such as skin, lips, nails, eyelashes, eyebrows and hair. The inventive composition comprises particles of at least one polymer in an aqueous dispersion, wherein said at least one polymer has a glass transition temperature (T_g) ranging from 35°C to 80°C and a minimum film-forming temperature (MFT) such that $T_g - MFT \geq 8^\circ\text{C}$, and at least two organic solvents wherein

a first organic solvent has a molecular weight less than or equal to 200 and a boiling point, measured at ambient pressure, ranging from 100°C to 300°C, and a second organic solvent has a molecular weight greater than 200 and a boiling point, measured at ambient pressure, greater than or equal to 120°C. See Specification at paragraph [007].

Aqueous cosmetic compositions comprising a polymer in an aqueous dispersion are known. Frequently, the polymer has a glass transition temperature and a film-forming temperature that are close to one another. *Id.* at paragraph [004]. However, with such a polymer, it is generally not possible to obtain a film that dries rapidly, is not sticky, displays good hardness, and is easy to remove with standard removers. *Id.*

The present inventors have solved at least one of these problems by combining at least one particular polymer in an aqueous dispersion with selected solvents. *Id.* at paragraph [006]. The result is a novel film-forming composition that forms a film having at least one desirable cosmetic property chosen from, for example, adhesion, glossiness, non-stickiness and the ability to be readily cleaned off with available standard removers, such as, for example, acetone based and ethyl acetate based removers. *Id.* at paragraph [005].

VI. Issues

The sole issue on appeal is whether claims 1-9, 15-22, and 43-70 are patentable under 35 U.S.C. § 103(a) over Mondet *et al.* (U.S. Patent No. 5,965,116) (“Mondet”).

VII. Grouping Of Claims

Each claim of this patent application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. For convenience in handling this Appeal, however, pending claims 1-9, 15-22, and 43-70, stand or fall together.

VIII. Argument: The Office has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103(a)

In the Final Office Action dated May 14, 2003, ("Final Office Action") the Office rejected claims 1-9, 15-22, and 43-70 under 35 U.S.C. § 103(a) as being unpatentable over Mondet *et al.* (U.S. Patent No. 5,965,116) ("Mondet"). Appellants maintain that a *prima facie* case of obviousness has not been established for the reasons set forth below.

To establish a *prima facie* case of obviousness, certain basic criteria must be shown, including (1) whether the prior art reference would have suggested to or motivated one of ordinary skill in the art to make the claimed invention; and (2) whether the prior art reference would have also revealed that there would be a reasonable expectation of success in so making. See In re Vaeck, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (citing In re Dow Chemical Co., 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988)). "Both the suggestion and the reasonable expectation of success must be found in the prior art reference, not in the applicant's disclosure." *Id.* Using an applicant's disclosure as a blueprint to reconstruct the claimed invention from isolated pieces of the prior art references contravenes the statutory mandate of § 103, which

requires determining obviousness at the time the invention was made. See Grain Processing Corp. v. American Maize-Prods. Co., 840 F.2d 902, 907, 5 U.S.P.Q.2d 1788, 1792 (Fed. Cir. 1988).

In the present case, as discussed at length below, the Office has not met its burden of proving a *prima facie* case of obviousness. Instead, the Office has failed to show not only a motivation or suggestion to make the claimed invention, but also a reasonable expectation of success in so making.

A. Mondet does not contain the requisite motivation or suggestion to combine

In particular, the Office has not shown that motivation exists in Mondet to pick and choose ingredients to result in the very specific combination of (1) a first organic solvent with a molecular weight less than or equal to 200 and a boiling point, measured at ambient pressure, ranging from 100°C to 300°C, (2) a second organic solvent with a molecular weight greater than 200 and a boiling point, measured at ambient pressure, greater than or equal to 120°C, and (3) particles of at least one polymer with specific physical properties as presently claimed. See, e.g., claim 1. Instead, the Office uses only general legal and theoretical arguments based on impermissible hindsight in its attempt to establish that the selection of the required solvents would have been obvious.

The threshold for establishing a teaching, motivation or suggestion to combine elements of a prior art reference is high. The Office can satisfy the burden of establishing a *prima facie* case of obviousness “only by showing some objective

teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings.” In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988) (citations omitted) (emphasis added).

Here, the contentions of the Office can hardly be considered evidence of “objective teachings” or of “knowledge generally available” that would have led one of ordinary skill from Mondet to Apellants’ invention. In its attempt to read Mondet to include all three of the ingredients required by, for example, present claim 1, the Office contends that “Mondet et al. teaches cosmetics compositions comprising copolymers . . . within the scope of the polymer herein employed,” and “further teaches that the compounds herein termed a first and second organic solvents are also useful in the cosmetic composition.” Final Office Action at 2. Thus, the Office concludes that “the claimed cosmetic composition, which comprises [a] copolymer and two organic compounds, are obvious over Mondet.” *Id.* The Office supports its conclusion by citing old Supreme Court case law holding that, “the selection of a known material based on its suitability for the intended use has been determined to be prima facie obvious. See, *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945); *IN [sic] re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960); and MPEP 2144.07.” Final Office Action at 2.

In other words, the Office takes the position that because Mondet may “optionally contain a plasticizer...” (citing col. 4, lines 21-22), wherein the properties of useful plasticizers may overlap with those of the claimed organic solvents, it would have been obvious to choose two organic compounds with the properties of the two presently

claimed solvents, and combine these with particles of at least one polymer as claimed. This is hardly a motivation to pick through the disclosure of Mondet and come up with the presently claimed composition. Nevertheless, in response to Appellants' argument of record that Mondet provides no motivation to combine the two different organic solvents with particles of at least one polymer as presently claimed, the Office argues that "[o]ne of ordinary skill in the art would have been motivated to employ various combination [sic] of the 'plasticizers' list in Mondet et al. to optimize the mechanical properties, the cosmetic properties and the adhesion to keratin substance of the deposited film-forming acrylic polymer." Final Office Action at 3. Appellants simply cannot agree. Mondet's statement that it can optionally contain a plasticizer in order to enhance certain properties is the only "objective teaching" offered by the Office in support of its position that Mondet motivates the instant claimed solvent combination, and it is simply insufficient to support a prima facie case of obviousness.

1. Objective evidence of suggestion or motivation is absent in Mondet

In its attempt to establish the presence of the required motivation, the Office has continued to support its position mainly by asserting that it is "prima facie obvious to combine two compositions each of which is taught in the prior art to be useful for the same purpose in order to form third composition that is to be used for very the same [sic] purpose." Final Office Action at 3, *citing In re Kerkhoven*, 205 USPQ 1069 (C.C.P.A. 1980). And in response to Appellants' repeated arguments that Mondet does not provide any motivation to combine the two claimed organic solvents with the

claimed polymer, the Office has only made the conclusory statement that “[o]ne of ordinary skill in the art would have been motivated to employ various combination [sic] of the ‘plasticizers’ list in Mondet et al. to optimize the mechanical properties, the cosmetic properties and the adhesion to keratin substance of the deposited film-forming acrylic polymer.” *Id.* at 3. Despite the significance that the Office has placed on this statement in Mondet throughout prosecution, Mondet states only that it can “**optionally** contain a plasticizer in order to enhance the mechanical properties, the cosmetic properties and the adhesion to keratin substances of the deposited film-forming acrylic polymer after application and drying,” Mondet, col. 4, lines 21-25 (emphasis added). Regardless, the Office continues to insist that this passage renders the instant claimed invention obvious.

Further, the Office has continued to mischaracterize the instant claimed invention as “a combination of two known ‘plasticizers’,” and concluded that since plasticizers “are known to be beneficial to the film-forming composition, [the combination] sets forth prima facie obvious subject matter.” Final Office Action at 3-4. Thus, in the Final Office Action, without citing any support in Mondet to this effect, the Office merely restates its argument that it is “prima facie obvious to combine two compositions each of which is taught in the prior art to be useful for the same purpose in order to form third composition that is to be used for very the same [sic] purpose.” *Id.* (citing In re Kerkhoven).

a. Rejection based on Kerkhoven is Not Appropriate

More specifically, the Office has continued to argue, relying on In re Kerkhoven, that it is obvious to combine two solvents known to be solvents. It appears that the Office would rather rely on Kerkhoven than produce the objective arguments necessary to establish a *prima facie* case of obviousness. Appellants respectfully argue that, not only is such a rejection improper, but that the facts of Kerkhoven are not applicable to the present case.

According to M.P.E.P. § 2144.04, “if the applicant has demonstrated the criticality of a specific limitation, it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection.” Appellants in the present case have emphasized the criticality of the two different required solvents in affecting the properties of the film-forming composition. For example, an organic solvent with molecular weight less than or equal to 200, i.e., the claimed “first” organic solvent, is referred to as the “coalescing agent” because it “furtheres the coalescence of the particles of polymer in an aqueous dispersion.” Specification at paragraph [067]. An organic solvent with molecular weight greater than 200, i.e., the claimed “second” organic solvent, is referred to as the “plasticizer” because it “makes it possible to plasticize the at least one polymer in an aqueous dispersion.” Specification at paragraph [070]. Thus, the present invention requires the presence of *at least both* the first and second organic solvents and specifically, at least one within each weight range, distinguishing between them by describing their differing functions. Such criticality having been thus demonstrated, it is improper for the Office to rely solely on case law to

attempt to establish a prima facie case of obviousness, particularly in light of the admonition of the M.P.E.P. not to do so.

b. Kerkhoven is Not Applicable

Moreover, Kerkhoven is simply not applicable to the present application. In Kerkhoven, the appealed claims were directed to a process for forming a detergent, comprising forming two aqueous slurries, where one slurry was predominantly an anionic detergent and the other was primarily a nonionic detergent, independently or simultaneously drying the slurries, and mixing the resulting products. See Kerkhoven, 205 U.S.P.Q. at 1070. It was acknowledged that prior art detergents comprised a mixture of anionic fatty acid soaps, anionic detergents, and nonionic detergents. *Id.* To make the known detergents, all of the ingredients were combined together in one slurry and then spray dried. *Id.* Therefore, the court held that the claims at issue requiring “*no more than the mixing together*” of two conventional detergents to make a third detergent composition set forth “prima facie obvious subject matter.” *Id.* at 1072 (emphasis added).

There are several key differences between the present invention and the invention at issue in Kerkhoven. First, and most importantly, the end product in Kerkhoven was the same as the two combined ingredients: a detergent. In the present invention, the claimed at least two organic solvents, each chosen from a specifically defined group of solvents, and the claimed polymer are combined to create, not a solvent, but a film-forming composition “for making-up or care of keratinic materials such as skin, lips, nails, eyelashes, eyebrows and hair.” Specification at paragraph

[001]. This film-forming composition end product is *not* itself a solvent nor is it the at least one polymer as claimed; instead it is, as a combination of the recited ingredients, a wholly new composition. Thus, the claimed film-forming composition resulting from the combination of the claimed polymer with the claimed solvents requires thoughtful selection of the at least two different solvents, depending on the desired end result, as described in the specification.

2. Hindsight Analysis is Improper

The Office, in alleging a prima facie case of obviousness, also asserts that “Mondet teaches that the ‘plasticizers’ are useful for optimizing the performance of the film forming composition,” and concludes that such a statement would motivate the creation of the present invention based on Mondet alone. Final Office Action at 4. The Office supports its conclusion with the statement that “[t]he optimization of a result effective parameter is considered within the skill of the artisan.” *Id.* That is, the Office seems to think that the *possibility* of modifying several parameters of Mondet provides *motivation* to do so. It is clear that the Office’s allegation could only have come from hindsight.

However, hindsight, such as exhibited by the Office here, is not the proper pathway by which to determine obviousness. See In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984) (“The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.”) As the Federal Circuit has noted, “case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness

analysis is rigorous application of the requirement for a showing of the teaching or motivation” of the art. In re Dembiczak, 175 F.3d 994, 999 (Fed. Cir. 1999). Here, Mondet does not suggest the desirability of any modification that would result in the invention as presently claimed.

For example, in the present specification, the first solvent, i.e., the coalescing solvent, “can be present in the film-forming cosmetic composition according to the invention in an amount sufficient to obtain a film deposited on the keratinic material,” and the second solvent, i.e. the plasticizer solvent, can be present “in a quantity sufficient to plasticize the polymer film deposited on the keratinic material.” Paragraphs [069] and [073]. In contrast, Mondet states that the compositions it discloses can “optionally contain a plasticizer in order to enhance the mechanical properties, the cosmetic properties and the adhesion to keratin substances of the deposited film-forming acrylic polymer ***after application and drying.***” Mondet, col. 4, lines 21-25 (emphasis added). Further, according to Mondet, “[t]he presence of a plasticizer is not obligatory in order to adjust the lacquering power” Mondet, col. 4, lines 21-29. In other words, Mondet does not require the plasticizer (the presently claimed second solvent) to enhance the film-forming properties, and does not even remotely suggest that choosing at least one of each of two different solvents in combination with a polymer as claimed would provide any benefit in forming and applying the film. Thus, the Examiner is forced to use general legal arguments, as discussed above, because Mondet does not provide guidance for choosing at least one of each type of organic solvent as claimed.

B. The Office has not Shown a Reasonable Expectation of Success

Not only has the Office not shown the requisite motivation from Mondet to make the presently claimed invention, but the Office has also failed to demonstrate that the prior art reference would have revealed a reasonable expectation of success in making the claimed invention. This reasonable expectation of success must be found outside of the teaching of the claimed disclosure. See In re Vaeck, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (citing In re Dow Chemical Co., 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988)). Since no such reasonable expectation appears to exist, the Office tries to apply an “obvious to try” standard, apparently in an attempt to avoid showing the necessary evidence of a reasonable likelihood of success.

As noted above, with respect to the two claimed organic solvents, the Office has alleged that “[t]he optimization of a result effective parameter [i.e., the solvents] is considered within the skill of the artisan. See, In re Boesch and Slaney (CCPA) 204 USPQ 215.” Final Office Action at 4. However, the Office has failed to discuss any reasonable expectation of success of the present invention that can be derived from Mondet. That is because Mondet does not provide such an indication. For example, Mondet does not offer any guidance on how the “optional” plasticizer(s) would interact with the required polymer of the claimed invention.

As stated in M.P.E.P § 2145, it is improper for the Examiner to argue obviousness where the prior art merely discloses a promising field of experimentation while providing “only general guidance as to the particular form of the claimed invention

or how to achieve it." *Id.* (citing In re O'Farrell, 7 U.S.P.Q.2d 1673, 1681 (Fed. Cir. 1988)). Moreover, the reference must direct those skilled in the art to the presently claimed invention without any need for picking, choosing, and combining various disclosures within the reference not directly related to each other by the teachings of the cited reference. In re Luvisi, 144 U.S.P.Q. 646, 649-50 (C.C.P.A. 1965) (Examiner's obviousness rejection based on a "needle-in-the-haystack" type of disclosure was found improper).

Thus, not only has the Office failed to showing that Mondet in any way motivates the present invention, the Office failed to demonstrate any reasonable expectation of success as well.

IX. Conclusion

For the reasons given above, pending claims 1-9, 15-22, and 43-70 are patentable over the cited prior art. The Board of Patent Appeals and Interferences should therefore reverse or dismiss the outstanding rejection and allow claims 1-9, 15-22, and 43-70.

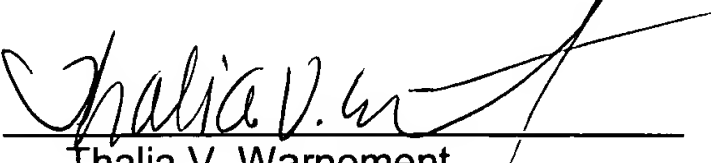
To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 29, 2004

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Appendix to Appeal Brief Filed March 29, 2004

Rejected claims 1-9, 15-22, and 43-70:

1. (original): A film-forming cosmetic composition comprising:

- particles of at least one polymer in an aqueous dispersion, wherein said at least one polymer has a glass transition temperature (T_g) ranging from 35°C to 80°C and a minimum film-forming temperature (MFT) such that $T_g - MFT \geq 8^\circ\text{C}$; and

- at least two organic solvents herein:

- a first organic solvent has a molecular weight less than or equal to 200 and a boiling point, measured at ambient pressure, ranging from 100°C and 300°C, and

- a second organic solvent has a molecular weight greater than 200 and a boiling point, measured at ambient pressure, greater than or equal to 120°C.

2. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer has a $T_g - MFT \geq 12^\circ\text{C}$.

3. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer has a $T_g - MFT \geq 16^\circ\text{C}$.

4. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer has a $T_g - MFT \geq 18^\circ\text{C}$.

5. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer has a $T_g - MFT$ ranging from 8°C to 25°C.

6 (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer has a T_g ranging from 40°C to 65°C.

7. (original): A film-forming cosmetic composition according to Claim 1, wherein said particles have a size ranging from 50 to 200 nm.

8 (original): A film-forming cosmetic composition according to Claim 7, wherein said particles have a size ranging from 80 to 150 nm.

9. (previously presented): A film-forming cosmetic composition comprising: a film-forming composition comprising:

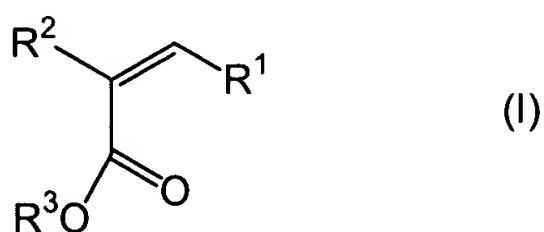
- at least one polymer in an aqueous dispersion, wherein said at least one polymer has a glass transition temperature (T_g) ranging from 35°C to 80°C and a minimum film-forming temperature (MFT) such that $T_g - \text{MFT} \geq 8^\circ\text{C}$; and

- at least two organic solvents wherein:

- a first organic solvent has a molecular weight less than or equal to 200 and a boiling point, measured at ambient pressure, ranging from 100°C and 300°C, and

- a second organic solvent has a molecular weight greater than 200 and a boiling point, measured at ambient pressure, greater than or equal to 120°C.

15. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer is formed from at least 0.2% by weight, relative to the total weight of monomers forming said at least one polymer, of at least one monomer chosen from monomers of formula (I):



wherein R1 and R2 which may be identical or different, are each chosen from hydrogen and methyl groups, and R3 is chosen from cyclic, linear, and branched (C9-C30) alkyl groups.

16. (original): A film-forming cosmetic composition according to Claim 15, wherein said monomers of formula (I) are present in said at least one polymer in an amount ranging from 0.2 to 50 % by weight relative to the total weight of monomers forming said at least one polymer.

17. (original): A film-forming cosmetic composition according to Claim 16, wherein said monomers of formula (I) are present in said at least one polymer in an amount ranging from 0.6 to 25 % by weight relative to the total weight of monomers forming said at least one polymer.

18. (original): A film-forming cosmetic composition according to Claim 17, wherein said monomers of formula (I) are present in said at least one polymer in an amount ranging from 3 to 25 % by weight relative to the total weight of monomers forming said at least one polymer.

19. (original): A film-forming cosmetic composition according to Claim 15, wherein R3 is chosen from cyclic, linear, and branched (C12-C22)alkyl groups.

20. (original): A film-forming cosmetic composition according to Claim 15, wherein R3 is chosen from linear (C9-C30)alkyl groups.

21. (original): A film-forming cosmetic composition according to Claim 15, wherein said monomers of formula (I) are chosen from esters of (meth)acrylic acid and (C12-C22) alcohols, esters of methymethacrylic acid and (C12-C22) alcohols, and esters of crotonic acid and (C12-C22) alcohols.

22. (original): A film-forming cosmetic composition according to Claim 21, wherein said esters of (meth)acrylic acid and (C12-C22) alcohols are chosen from lauryl (meth)acrylate and stearyl (meth)acrylate.

43. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer is present in an amount ranging from 0.1% to 60% by weight relative to the total weight of the composition.

44. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer is present in an amount ranging from 1% to 50% by weight relative to the total weight of the composition.

45. (original): A film-forming cosmetic composition according to Claim 1, wherein said at least one polymer is present in an amount ranging from 5% to 40% by weight relative to the total weight of the composition.

46. (original): A film-forming cosmetic composition according to Claim 1, wherein said first organic solvent has a boiling point ranging from 120°C to 250°C.

47. (original): A film-forming cosmetic composition according to Claim 1, wherein said first organic solvent has a boiling point ranging from 130°C to 230°C.

48. (original): A film-forming cosmetic composition according to Claim 1, wherein said first organic solvent is chosen from ethers of propylene glycol, ethers

of dipropylene glycol, and compounds chosen from propylene glycol methyl ether acetate, propylene glycol diacetate, methyl lactate, ethyl lactate, isopropyl lactate and butyl lactate.

49. (original): A film-forming cosmetic composition according to Claim 48, wherein said ethers of propylene glycol are chosen from propylene glycol n-butyl ether, propylene glycol t-butyl ether, propylene glycol n-propyl ether, and propylene glycol phenyl ether, and said ethers of dipropylene glycol are chosen from dipropylene glycol n-butyl ether, dipropylene glycol methyl ether, dipropylene glycol t-butyl ether, and dipropylene glycol npropyl ether.

50. (original): A film-forming cosmetic composition according to Claim 1, wherein said first organic solvent is present in an amount ranging from 0.05% to 10% by weight relative to the total weight of the composition.

51. (original): A film-forming cosmetic composition according to Claim 50, wherein said first organic solvent is present in an amount ranging from 0.1% to 8% by weight relative to the total weight of the composition.

52. (original): A film-forming cosmetic composition according to Claim 1, wherein said second organic solvent has a boiling point greater than or equal to 140°C.

53. (original): A film-forming cosmetic composition according to Claim 1, wherein said second organic solvent has a boiling point greater than or equal to 160°C.

54. (original): A film-forming cosmetic composition according to Claim 1, wherein said second organic solvent has a boiling point ranging from 140 to 500°C.

55. (original): A film-forming cosmetic composition according to Claim 1, wherein said second organic solvent is chosen from adipates, sebacates, citrates, and phthalates.

56. (original): A film-forming cosmetic composition according to Claim 55, wherein said second organic solvent is chosen from diethyl adipate, dibutyl adipate, diisobutyl adipate, dilsopropyl adipate, dimethyl sebacate, diethyl sebacate, dibutyl sebacate, triethyl citrate, acetyltriethyl citrate, acetyltributyl citrate, diethyl phthalate, dibutyl phthalate and dioctyl phthalate.

57. (original): A film-forming cosmetic composition according to Claim 1, wherein said second organic solvent is present in an amount ranging from 0.05% to 20% by weight relative to the total weight of the composition.

58. (original): A film-forming cosmetic composition according to Claim 57, wherein said second organic solvent is present in an amount ranging from 0.1% to 10% by weight relative to the total weight of the composition.

59. (original): A film-forming cosmetic composition according to Claim 1 further comprising at least one coloring material chosen from water-soluble colorants and powder coloring materials.

60. (original): A film-forming cosmetic composition according to Claim 59, wherein said powder coloring materials are chosen from pigments, nacreous pigments and flakes.

61. (original): A film-forming cosmetic composition according to Claim 59, wherein said at least one coloring material is present in an amount ranging from 0.01% to 50% by weight relative to the total weight of the composition.

62. (original): A film-forming cosmetic composition according to Claim 61, wherein said at least one coloring material is present in an amount ranging from 0.01% to 30% by weight relative to the total weight of the composition.

63. (original): A film-forming cosmetic composition according to Claim 1 further comprising at least one thickening agent.

64. (original): A film-forming cosmetic composition according to Claim 63, wherein said at one least thickening agent is chosen from clays swelling in water, aggregating thickeners, and water-soluble cellulosic thickeners.

65. (original): A film-forming cosmetic composition according to Claim 64, wherein said at least one thickening agent is present in an amount ranging from 0.1% to 5% by weight relative to the total weight of the composition.

66. (original): A film-forming cosmetic composition according to Claim 1 further comprising at least one cosmetic additive.

67. (original): A film-forming cosmetic composition according to Claim 66, wherein said at least one cosmetic additive is chosen from fillers, spreading agents, wetting agents, dispersants, anti-foam agents, preservatives, UV filters,

active agents, surfactants, hydrating agents, perfumes, neutralizing agents, stabilizers and antioxidants.

68. (original): A film-forming cosmetic composition according to Claim 1 further comprising at least one compound chosen from emulsifiers and protective colloid agents.

69. (original): A film-forming cosmetic composition according to Claim 1, wherein said film-forming cosmetic composition is a making-up or cosmetic care composition for a keratinic material.

70. (original): A film-forming cosmetic composition comprising:

- particles of at least one polymer in an aqueous dispersion, wherein said at least one polymer has a glass transition temperature (T_g) ranging from 35°C to 80°C and a minimum film-forming temperature (MFT) such that $T_g - MFT \geq 8^\circ\text{C}$; and
- at least two organic solvents wherein:
 - a first organic solvent has a molecular weight less than or equal to 200 and a boiling point, measured at ambient pressure, ranging from 100°C and 300°C, and
 - a second organic solvent has a molecular weight greater than 200 and a boiling point, measured at ambient pressure, greater than or equal to 120°C,

wherein said film-forming cosmetic composition is a nail varnish.